

REMARKS

Applicant gratefully acknowledges the withdrawal of the finality of the previous Office Action, and that our submission filed on April 5, 2006 has been entered, pursuant to our Request for Continued Examination.

Claims 1-3, 5-15, 17, 19-22, and 24 are now pending in the application. Claims 1-3, 5-15, 17, 19-22, and 24 stand rejected. Claim 12 has been cancelled; Claims 1, 13, and 19 have been amended; and Claims 26 and 27 are newly presented. Support for the amendments of Claims 1, 13, and 19 can be found at least in Figures 2, 3a, and 3b. Support for the new claims can be found at least in Figure 3b and paragraph [0023] of the application as originally filed and, as such, no new matter has been presented. The Examiner is respectfully requested to reconsider and withdraw the rejections in view of the amendments and remarks contained herein.

REJECTION UNDER 35 U.S.C. § 102

Claims 1-3, 6-13, 15, 17, 19-22, and 24 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Chibrac et al. (U.S. Pat. Pub. No. 2002/0022889 A1). This rejection is traversed in view of the amendments and arguments herein.

The Examiner's attention is directed to independent Claim 1 which has been amended to include the limitation "a pair of intersecting planar surfaces, said planar surfaces being generally parallel to the integral straight anchoring device." Claim 13 has been amended to include the limitation that the flange surface has "at least two planar inner surfaces generally parallel to the integral engagement stem." Claim 19 has

been amended to include the limitation, resecting “a pair of intersecting planar surfaces, said surfaces being generally parallel to the hole.”

Applicant respectfully submits that Chibrac does not teach a pair of intersecting planar surfaces which are generally parallel to the stem. Further, Applicant notes that Claims 1 and 13 have been amended to include the limitation that the extended articulating surface protrudes from only a portion of the exterior articulating surface. Applicant notes that Chibrac provides an articulating surface around the entire periphery of the articulating surface and, as such, does not teach this limitation.

Claims 1-3, 6-13, 15, 17, 19-22, and 24 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Long et al. (U.S. Pat. Pub. No. 2004/0193277 A1). Applicant strongly traverses the Office's characterization of Figure 22 of the Long reference. In this regard, the Office indicated that two of the internal surfaces of the prosthetic of Long are v-shaped planar surfaces. Applicant submits that the interior surface cited by the Office of Figure 22 is cylindrical, and not planar. The Examiner's attention is directed to paragraph [0089] of the Long reference which clearly states the interior surface is cylindrical. In this regard, paragraph [0089] of the Long reference states “unlikely prosthesis 20, the second body 130 of the prosthesis 120 has an opposed surface in the form of a cylindrical periphery 138. The interior periphery 138 is designed to matingly fit with the cylindrical surface prepared on the humeral head.” (emphasis added) Applicant notes the brief description of the figures clearly states that Figure 22 is a cross-section of the prosthesis in Figure 21. As the Long reference does not teach the planar surfaces as claimed, rejection under 35 U.S.C. § 102(e) is improper.

Claims 1-3 and 6-10 stand rejected under 35 U.S.C. § 102(b) as being anticipated by BIOMET brochure (engineering drawings submitted 7/22/1997 and cited in Applicant's IDS of 12/17/2003). In view of the arguments and amendments herein, this rejection is respectfully traversed.

Applicant directs the Examiner's attention to amended independent Claim 1 which includes the limitation "a pair of planar surfaces which intersect, said planar interface surfaces being generally parallel to the integral straight anchoring device." Applicant notes that the extended articulating surface of the BIOMET brochure does not have these limitations inasmuch as its interior surface is curved. As such, Applicant submits the rejection is improper.

Claims 19, 20 and 24 stand rejected under 35 U.S.C. § 102(b) as being anticipated by the disclosure of Copeland™ Humeral Resurfacing Head (BIOMET Orthopedics, Inc.: 2000 brochure). Claims 19, 20 and 24 further stand rejected under 35 U.S.C. § 102(b) as being anticipated by Rambert et al. (FR 2 578 739).

The Examiner's attention is directed to Claim 19 which has been amended to include the limitation resecting "a pair of intersecting planar surfaces." Applicant submits that neither the Copeland™ Humeral Resurfacing Head brochure or the Rambert reference disclose resecting a portion of the humeral head so as to form a pair of intersecting planar surfaces. As all of the limitations of the claims are not taught by the reference, the rejection under 35 U.S.C. § 102(b) is improper.

REJECTION UNDER 35 U.S.C. § 103

Claim 11 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over BIOMET brochure in view of Pappas et al. (U.S. Pat. No. 4,470,158). Claim 22 stands rejected as being unpatentable over Rambert et al. in view of Pappas et al. Claim 5 stands rejected as being unpatentable over Long et al. in view of Copeland™ Humeral Resurfacing Head. Claims 5 and 14 stand rejected as being unpatentable over Chibrac et al. in view of Copeland™ Humeral Resurfacing Head. For the reasons states above, Applicant respectfully submits the references do not teach the invention as claimed and, therefore, the rejection under 35 U.S.C. § 103 is improper.


CONCLUSION

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action and the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested.

If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

Respectfully submitted,

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